

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 27, 2005. At the time of the Office Action, Claims 1-8 were pending in this Application. Claims 1 and 2 were rejected. Claims 3-8 were objected to. Claim 4 has been amended. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claim 4 was rejected by the Examiner under 35 U.S.C. §112, sixth paragraph, for containing the word "means" proceeded by the words "the modified efficiency curve" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. Applicants amend Claim 4 to overcome these rejections and respectfully request full allowance of Claim 4 as amended.

Rejections under 35 U.S.C. § 102

Claims 1 and 2 were rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,578,546 issued to Winfried Schultalbers et al. ("Schultalbers et al."). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The present application is directed to a method for determining a nominal torque value (or in other words a setpoint torque) from a nominal fuel quantity value. Present independent claim 1 is directed to a method for converting a nominal fuel quantity into a

nominal torque for further processing in an internal combustion engine. To this end, first an actual engine efficiency is determined by calculating a ratio of actual torque and actual fuel quantity. Then, this efficiency is multiplied by the nominal fuel quantity value. As a result a nominal torque value is received.

The Examiner stated that the present claims are broad enough to be anticipated by Schultalbers. Applicants respectfully disagree. The present independent claim includes clear limitations as to which parameters obtained within a combustion engine are used to determine a nominal torque value. According to claim 1, the actual engine torque value and the actual fuel quantity value are used to first determine an engine efficiency value. This efficiency value is then multiplied by a nominal fuel quantity value to determine the nominal fuel quantity value.

Schultalbers discloses a completely different method. According to Schulthalbers the position of an accelerator pedal is determined to calculate a desired (or nominal) engine torque. A second parameter to determine a desired torque is the actual engine speed. At no time an actual engine torque value is determined. Both values are fed to a characteristic diagram 4 to generate a first signal D1. Signal D1 is then converted into a torque value. See Col. 8, line 9 - col. 9, line 49. Schultalbers never discloses to calculate an efficiency value from an actual engine torque and an actual fuel quantity.

Schultalbers discloses to calculate an engine efficiency by unit 11. However, Schultalbers does not disclose to calculate an engine efficiency from an actual engine torque and an actual fuel quantity as required by independent claim 1. On the contrary, Schultalbers merely discloses to calculate a relative engine efficiency by current actual values for the injection angle and/or ignition angle, the exhaust gas feedback rate, the air ratio and values for the charge pressure and/or intake manifold pressure.

Furthermore, and more importantly, the engine efficiency value is never to be used together with a nominal fuel quantity value to determine the nominal engine torque value. On the contrary, according to Schultalbers, the efficiency value is used to correct a normal fuel quantity value into a corrected fuel quantity signal K3. Even this value is only used to determine a further fuel quantity value, namely the maximum fuel quantity value K4. At the time the efficiency value is introduced in the Schultalbers method, there is no torque value

used anymore. Instead from this point on, Schulthalbers merely discloses a system for determining a fuel quantity from different parameters in a vehicle with a combustion engine.

Applicants respectfully submit that the dependent Claim 2 is allowable at least to the extent of the independent Claim 1 to which it refers, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claim 2. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102 or §103, if necessary, and do not concede that the Examiner's proposed combinations are proper.

Change of Correspondence Address

Applicants respectfully request that all papers pertaining to the above-captioned patent application be directed to Customer No. **31625** and all telephone calls should be directed to Andreas Grubert at 512.322.2545.

Allowable Subject Matter

Applicants appreciate Examiner's consideration and indication that Claims 3 and 8 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants submit new independent Claim 9 incorporating the elements of allowable Claim 3 and base Claim 1. New claims 10-15 depend on new claim 9. Applicants submit new Claims 9-15 are in condition for allowance and requests favorable action.

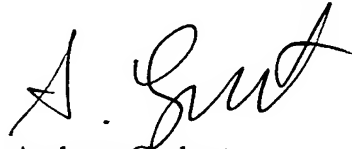
CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended.

Applicants enclose a Petition for Extension of Time for one-month and a check in the amount of \$120.00 for the extension fee. Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants



Andreas Grubert
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SEND CORRESPONDENCE TO:
BAKER BOTTS L.L.P.
CUSTOMER ACCOUNT NO. **31625**
512.322.2545
512.322.8383 (fax)